GORDON v. WHITLOCK AND OTHERS.—Decided at Richmond, March 26, 1896.—*Harrison*, J:

1. WILLS—*Several testamentary papers—Revocation.* The mere fact of making a subsequent testamentary paper does not work a revocation of a prior one, in the absence of an express revocation, unless the two are incapable of standing together. A will need not be confined to one paper, but may consist of several testamentary papers of different dates, and executed and attested in different ways and at different times. The expression in the subsequent will, "This is my last will," is not entitled to any weight. If the subsequent paper is merely supplemental, it will be treated as a codicil; if partially conflicting, that of later date will operate to revoke the former so far as the provisions of the two are conflicting, or incompatible. But in the absence of a clause of revocation, the court will adopt that construction which will give effect to all the testamentary papers, if possible, sacrificing the earlier papers only so far as clearly irreconcilable with the later. In the case at bar the last will contains no clause of revocation, and there is nothing on the face of it to indicate that it was intended as a substitute for the first, except so far as the two are inconsistent; the last will disposes of only a small portion of the testator's estate, though he was desirous of having a will disposing of his property; the testator had every opportunity of destroying the first will if he so desired, but instead, delivered that, with the other testamentary papers, to one of his executors shortly before his death, and there is no difficulty in reading the two wills and two codicils together as forming a complete testamentary disposition of the testator's entire estate. Under the evidence the two wills and codocils 1 and 2 were properly admitted to probate, and "Codocil No. 3" was properly rejected, for want of sufficient mental capacity at the date of its execution.

BOSCHEN'S EX'OR v. JURGENS, EX'OR.—Decided at Richmond, April 2, 1896.—*Keith*, P:

1. SALE OF REAL ESTATE—*Presumed to be by the acre.* Every sale of real estate where the quantity is referred to in the contract is presumed to be a sale by the acre, unless the contract plainly indicates a sale in gross; and this presumption can only be overcome by clear and cogent proof.

2. REPRESENTATIONS OF SIZE OF CITY LOT—*Mutual mistake—Compensation for deficiency.* A representation that a city lot partially covered by buildings has a front of nineteen feet seven inches, and a depth of one hundred and thirty-eight feet, is material, and if untrue, but made in good faith by the vendor, and acquiesced in by the vendee, and the vendee has been guilty of no laches in discovering the error, a case of mutual mistake has been established, against which a court of equity will, at the instance of the purchaser, give relief by a decree for the value of the deficiency.

COLEMAN AND OTHERS v. CLAYTOR.—Decided at Richmond, April 9, 1896.—*Riely*, J:

1. MULTIFARIOUSNESS—*Defendants having a common interest and common defense.* Defendants who have a common interest and a common defense are properly joined in one suit, and a demurrer to a bill which charges community of interest and defense is properly overruled.